

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Reallocation of the 216-220 MHz,	)	WT Docket No. 02-8
1390-1395 MHz, 1427-1429 MHz,	)	RM-9267
1429-1432 MHz, 1432-1435 MHz,	)	RM-9692
1670-1675 MHz, and 2385-2390 MHz	)	RM-9797
Government Transfer Bands	)	RM-9854
	)	RM-9882

**EX PARTE COMMENTS OF WASHINGTON GAS LIGHT COMPANY**

Washington Gas Light Company (“Washington Gas”) hereby submits reply comments addressing issues raised in the Notice of Proposed Rulemaking<sup>1</sup> and comments filed in response thereto in the above referenced proceeding. In the *NPRM*, the Commission asked for comment regarding proposed service rules for several frequency bands formerly allocated on a primary basis to federal governmental use. The Commission already has determined that part of this spectrum, the 1427-1432 MHz band, should as a general matter be divided between medical telemetry (1427-1429.5 MHz) and non-medical telemetry (1429.5-1432 MHz), and has asked whether the non-medical portion of the band should be limited to utility telemetry. Washington Gas agrees with the comments filed by Itron, Inc. (“Itron”) and the American Hospital Association Task Force on Medical Telemetry (“AHA”), which demonstrate that only by limiting the use of the lower portion of the band to utility telemetry can medical telemetry services receive the protection they require and utilities have a critical tool for dealing with the energy crisis.<sup>2</sup>

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<sup>1</sup> See Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Band Transfer Bands, *Notice of Proposed Rulemaking*, WT Docket No. 02-08 (rel. Feb. 6, 2002) [hereinafter the “*NPRM*”].

<sup>2</sup> See Comments of Itron, Inc., WT Docket No. 02-8 (filed March 4, 2002) [hereinafter “Itron Comments”]; Comments of American Hospital Association Task Force on Medical Telemetry, WT Docket No. 02-8 (filed March 4, 2002) [hereinafter “AHA Comments”].

## **I. Limiting Non-Medical Telemetry in the 1427-1432 MHz Band To Utility Telemetry**

Washington Gas is mindful that a grant of exclusive spectrum to utility telemetry provides the best protection to wireless medical telemetry services (“WMTS”). As the AHA explains, the best protection for WMTS exists where it “would be surrounded by more compatible neighbors, *i.e.*, fixed telemetry services operated by an easily identifiable and limited number of utilities in each geographic area.”<sup>3</sup>

In addition to the protection of WMTS, and as noted by Itron, “utility telemetry is better suited than other forms of telemetry to co-exist with federal government users and radio astronomy monitoring stations in adjacent bands.”<sup>4</sup> Because of its low power levels, utility telemetry has existed for years in the 1427-1432 MHz band without problem. The same cannot be said of other forms of telemetry.

In addition to the protection of adjacent licensees, and as pointed out by Itron,<sup>5</sup> the grant of exclusive spectrum to utility telemetry would be consistent with the National Telecommunications and Information Administration’s directive to the Commission to fortify the nation’s homeland security by providing utilities and their supporting infrastructure with exclusive spectrum.<sup>6</sup> As the United Telecom Counsel explained in its comments, “telemetry services are the communications backbone for remote monitoring and control of critical Washington Gas infrastructure.”<sup>7</sup>

Having an exclusive allocation for utility telemetry would be highly beneficial. Washington Gas, for example, could use utility telemetry to expedite data collection and analysis, implement precision load forecasting, configure long-term power purchase contracts, execute demand-side management programs and incentives, and employ energy conservation

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<sup>3</sup> AHA Comments at 4.

<sup>4</sup> Itron Comments at 3.

<sup>5</sup> *Id.*

<sup>6</sup> See Marshall W. Ross & Jeng F. Mao, “Current and Future Spectrum Use by the Energy, Water, and Railroad Industries: Response to Title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 Public Law 106-553,” U.S. Department of Commerce, National Telecommunications and Information Administration (Jan. 30, 2002).

<sup>7</sup> Comments of the United Telecom Council, WT Docket No. 02-08, at 2 (filed March 4, 2002).

programs. The Commission has recognized these benefits, noting that utility telemetry “benefit[s] consumers by reducing billing problems, increasing the accuracy of meter readings and, ultimately, lowering utility bills.”<sup>8</sup>

## II. Licensing Issues

Washington Gas supports the Commission’s tentative determination to license telemetry in the 1427-1432 MHz band on a first-come, first-served, site-by-site basis. As UTC states in its comments, “this process has worked extremely well for telemetry applications, as well as other areas of private wireless service, and UTC sees no reason to alter that framework.”<sup>9</sup>

For telemetry operating under primary status, Washington Gas agrees with the Commission that site-by-site licensing “will provide greater assurance for protection of WMTS.”<sup>10</sup> For licensing under secondary status, where operators are prohibited from causing interference with primary users, the Commission is again correct in noting that geographic area licensing “would be neither workable nor efficient.”<sup>11</sup>

Washington Gas also believes that a first-come, first-served approach to licensing is, as Itron states, “preferable to the window or cut-off approach, because it is more expeditious.”<sup>12</sup> Moreover, as UTC states, “first-come-first-served processing would be consistent with the FCC’s obligation to consider licensing schemes that avoid the receipt of mutually exclusive applications.”<sup>13</sup>

Finally, Washington Gas agrees with the Commission that licensees should be selected by using a 70-mile (113-km) separation distance, and supports the concept of permitting closer separation when the Commission is presented with a short-spacing agreement. Absent a short-spacing agreement, Washington Gas agrees with UTC that the separation distance should “be

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<sup>8</sup> Amendment of Sections 22.501(g)(2) and 94.65(a)(1) of the Rules and Regulations to Re-Channel the 900 MHz Multiple Address Frequencies, *Report and Order*, 3 FCC Rcd 1564 (1988).

<sup>9</sup> UTC at 7.

<sup>10</sup> *NPRM* at ¶60.

<sup>11</sup> *Id.* at ¶59.

<sup>12</sup> Itron Comments at 6.

waived only upon approval by the Commission in accordance with Section 1.925 of the Commission's Rules."<sup>14</sup> Moreover, Washington Gas believes the Commission should require, as Itron suggests, "applicants seeking to depart from the 70 mile standard [] to make a showing such as that required under Section 90.621(b)(4) of the Commission's Rules," whereby an applicant must show "that co-channel stations would receive the same or greater protection' as they would from a fully spaced station."<sup>15</sup>

### CONCLUSION

Washington Gas commends the Commission's efforts to allocate the former governmental bands to private use. For the reasons stated herein, Washington Gas asks that the Commission allocate the 1429.5-1432 MHz band for the exclusive use of utility telemetry, and to make the band available to utility telemetry applicants on a first-come, first-served basis.

Respectfully submitted,

James B. White  
Vice President, Customer Services  
Washington Gas Light Company

May 9, 2002

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<sup>13</sup> UTC Comments at 7.

<sup>14</sup> *Id.*

<sup>15</sup> Itron Comments at 6.